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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter)

MAR - 6 1997

BellSouth Petition for Forbearance)
from Application of Section 272 of the)
Communications Act of 1934, as Amended,)
to Previously Authorized Services)

CC Docket No. 96-149 FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF AT&T CORP.

Pursuant to the Public Notice issued on February 14, 1997, AT&T respectfully submits its Comments on BellSouth's petition for forbearance, under Section 10 of the Communications Act of 1934, as amended, from the application of the requirements of Section 272 of the Act to BellSouth's "reverse directory" and E911 services.

In its petition, BellSouth asserts (pp. 1-4) that its "reverse directory" service is a "previously authorized" interLATA information service within the meaning of the Non-Accounting Safeguards Order,¹ and is therefore a permissible interLATA BOC activity under the Communications Act,² but concedes (p. 2) that this service is subject to

¹ Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-149, FCC 96-489 (released Dec. 24, 1996) ("Non-Accounting Safeguards Order"), ¶ 79. In support of the "prior authorization," BellSouth cites to a February 1989 Decree Court ruling, appended to its petition as Attachment 2, granting Ameritech a waiver of the MFJ restrictions to offer reverse directory assistance ("Ameritech Order"), and BellSouth's "me too" June 1989 Decree Court ruling, appended as Attachment 1 ("BellSouth Order").

² As to electronic, as opposed to live operator, reverse directory service, BellSouth recently received a waiver of the Commission's Comparably Efficient Interconnection

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the separate affiliate requirements of Section 272 of the Act. As to its E911 service, which hands off emergency calls to public or private agencies in different LATAs and transmits data across LATA boundaries, BellSouth argues (pp. 8-9) that "to the extent" that E911 is an information service, its provision has been previously authorized by the Department of Justice ("DOJ"),³ and the continued provision of that service on an integrated basis with its telecommunications services is in the public interest.

BellSouth further asserts (pp. 5 - 8) that it has already met the public interest standards of Section 10 of the Act.⁴ As to the reverse directory service,

(footnote continued from previous page)

("CEI") requirements under the Computer Inquiry rules to provide that enhanced service on an integrated basis. BellSouth Petition for Waiver of Computer III Rules for Reverse Search Capability, CC Docket No. 90-623, Memorandum Opinion and Order on Reconsideration, DA 96-1069 (July 3, 1996).

³ BellSouth appends, as Attachment 3, a March 1991 DOJ letter regarding E911 service provided by Pacific Telesis.

⁴ Section 10(a) of the Act provides that the Commission shall forbear from application of any provision of the Act "if the Commission determines that -

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest."

BellSouth argues that

"[t]he integration of both [voice and electronic] forms of reverse directory service with BellSouth's standard number-search services has been previously reviewed and determined to be in the public interest...[and] application of the Section 272 separate affiliate requirements is not necessary to ensure just and reasonable charges or to protect consumers."

BellSouth further states that application of Section 272 to this activity may cause it to cease providing "these existing service offerings." Turning to E911 service, it argues (p. 9) that a public interest examination has already been conducted by the DOJ, and the service has been determined to be in the public interest.⁵

In fact, BellSouth's petition falls far short of demonstrating that its request fully meets the Section 10 standard.⁶ In particular, BellSouth's reliance on the Decree Court's 1989 rulings and the 1991 DOJ letter is insufficient to demonstrate that

⁵ BellSouth also seeks (p. 10) expedited treatment of its petition because it was obligated under the Act to comply with the Section 272 structural separation requirements at least by February 20, 1997, if not earlier. The Commission's recent Order on Reconsideration in CC Docket No. 96-149 makes clear that the BOCs were required to come into compliance no later than February 8, 1997. Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, Order on Reconsideration, CC Docket No. 96-149, FCC 97-52 (released Feb. 19, 1997) ("Reconsideration Order"), Appendix A, § 53.201(a)(1).

⁶ As a threshold matter, the Commission should make clear that it cannot forbear from application of the Section 272 requirements in connection with a BOC's provision of in-region interLATA services for which Commission approval under Section 271(d) is required. Section 10(d) explicitly bars the Commission from forbearing from application of "the requirements of Section 251(c) or 271," and Section 271(d)(3) precludes the Commission from approving a BOC application for in-region interLATA authority unless it finds that "the requested authorization will be carried out in accordance with the requirements of Section 272." Thus, as to previously unauthorized in-region interLATA services, a BOC could not both obtain forbearance from Section 272 and comply with the requirements of Section 271(d).

BellSouth's waiver request meets the specific criteria for forbearance under Section 10, because those determinations turned on significantly different and narrower circumstances⁷ than required by Section 10 of the Act.⁸

In all events, even if BellSouth were to make a showing sufficient to warrant some measure of forbearance, it could not obtain the blanket relief it seeks here. While BellSouth indicates (p.8) that it will comply, in connection with its electronic reverse directory service, with the accounting and other safeguards required by the Commission's CEI waiver concerning that service, it makes no such commitments for its voice reverse directory service, or its E911 service. It also says nothing of the nondiscrimination requirements of Section 272, for either the electronic reverse directory service or for the other services for which it seeks forbearance. Even if the Commission were to find some limited forbearance appropriate in order to allow the integrated provision of reverse directory and E911 services, it should do so only upon the explicit requirement that BellSouth otherwise comply with the nondiscrimination and accounting requirements of Section 272.⁹

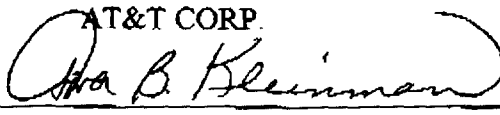
⁷ For example, in connection with reverse directory service, the Decree Court concluded that no other company was willing or able at that time to provide reverse directory service; and that reverse directory service revenues would "support" local service rates. BellSouth Petition, Att. 2, pp. 5-7. As to E911 service, the Department's letter found the service in the public interest because it permits convenient and efficient access to emergency services providers. *Id.*, Att. 3, p. 1.

⁸ See n. 4, *supra*.

⁹ For example, BellSouth might otherwise attempt to limit use by competitors of the BellSouth local exchange directory assistance database to traditional directory services, while BellSouth uses that database on an integrated basis to provide both traditional directory and reverse directory services.

WHEREFORE, BellSouth's petition for forbearance must be denied.

Respectfully submitted,

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March 6, 1997

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 6th day of March, 1997, a copy of the foregoing "Comments of AT&T Corp." was mailed by U.S. first class mail, postage prepaid, to the following parties:

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